

§§ 5.31–5.33

without deceptive intent without the required license under § 5.11 first having been obtained, and

(4) The required fee (§ 1.17(h)).

The above explanation must include a showing of facts rather than a mere allegation of action through error and without deceptive intent. The showing of facts as to the nature of the error should include statements by those persons having personal knowledge of the acts regarding filing in a foreign country and should be accompanied by copies of any necessary supporting documents such as letters of transmittal or instructions for filing. The acts which are alleged to constitute error without deceptive intent should cover the period leading up to and including each of the proscribed foreign filings.

(b) If a petition for a retroactive license is denied, a time period of not less than thirty days shall be set, during which the petition may be renewed. Failure to renew the petition within the set time period will result in a final denial of the petition. A final denial of a petition stands unless a petition is filed under § 1.181 within two months of the date of the denial. If the petition for a retroactive license is denied with respect to the invention of a pending

37 CFR Ch. I (7–1–04 Edition)

application and no petition under § 1.181 has been filed, a final rejection of the application under 35 U.S.C. 185 will be made.

[49 FR 13463, Apr. 4, 1984, as amended at 56 FR 1929, Jan. 18, 1991; 62 FR 53206, Oct. 10, 1997]

GENERAL

§§ 5.31–5.33 [Reserved]

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

EDITORIAL NOTE: Part 6 is placed in the separate grouping of parts pertaining to trademarks regulations.

PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

EDITORIAL NOTE: Part 7 is placed in the separate grouping of parts pertaining to trademarks regulations.

INDEX I—RULES RELATING TO PATENTS

EDITORIAL NOTE: This listing is provided for informational purposes only. It is compiled and kept current by the Department of Commerce. This index is updated as of July 1, 2002.

Section

A

Abandoned applications:	
Abandonment by failure to prosecute.....	1.135
Abandonment during interference.....	1.662(a)
Abandonment for failure to pay issue fee	1.137
Destruction after 20 yrs. unless marked for preservation	1.14(b)
Express abandonment	1.138
Processing and retention fee	1.21(l)
Referred to in issued patents.....	1.14
Revival of.....	1.137
When to public inspection	1.14
Abandonment of application. (See Abandoned applications.)	
Abstract of the disclosure.(content, physical requirements)	1.72
Separate sheet required for commencement of.....	1.72(b)
Arrangement in overall application.....	1.77, 1.163
Access to pending applications (limited)	1.14
Action by applicant	1.111-1.138
Address, Correspondence, only one recognized by Office	1.33(c)
Address for notice to Commissioner of appeal to Fed. Cir.....	1.302(c)
Address of Solicitor's Office	1.1(a)(3)
Address of the Patent and Trademark Office.....	1.1
Box CPA	1.53(d)(9)
Box Interference	1.1(e)
Box M. Fee.....	1.1(d)
Box Patent Ext.....	1.1(f)
Box PCT.....	1.1(b)
Box Provisional Patent Application	1.1(i)
Box Reexam	1.1(c)
Administrator or executor, may make application and receive patent	1.42
Proof of authority	1.44
Admission to practice. (See Attorneys and agents.)	
Affidavit (see also Oath in patent application):	
After appeal	1.195
In support of application for reissue.....	1.175
To disqualify commonly owned patent as prior art.....	1.130
To overcome cited patent or publication.....	1.131
Traversing grounds of rejection.....	1.132
Agents. (See Attorneys and agents.)	
Allowance and issue of patent:	
Amendment after allowance	1.312
Deferral of issuance	1.314
Delayed payment of issue fee.....	1.137
Delivery of patent.....	1.315
Issuance of patent.....	1.155, 1.314
Notice of allowance.....	1.155, 1.311

37 CFR Ch. I (7-1-04 Edition)

Patent to issue upon payment of issue fee.....	1.314
Patent to lapse if issue fee is not paid in full	1.317
Patent withheld for nonpayment of issue fee	1.155, 1.316
Reasons for	1.104(e)
Withdrawal from issue.....	1.313
Allowed claims statement of grounds for rejecting, by Board of Patent Appeals and Interferences.....	1.196
Amendment:	
Adding or substituting claims	1.111, 1.121
After appeal	1.116
After decision on appeal, based on new rejection of Board of Patent Appeals and Interferences	1.196
After final action.....	1.116
After final action (transitional procedures)	1.129
After notice of allowance.....	1.312
By patent owner	1.530
Copying claim of another application for interference.....	1.603
Copying claim of issued patent.....	1.606, 1.607
Drawings.....	1.121
Erasures and insertions	1.121
Involving a departure from original invention.....	1.121
Manner of making.....	1.121
May be required	1.121
Not covered by original oath.....	1.67
Numbering of claims.....	1.126
Of amendments	1.121
Of claims.....	1.111, 1.121
Of disclosure	1.121
Of drawing	1.121
Of specification.....	1.121
Paper and writing.....	1.52
Petition from refusal to admit	1.127
Proposed during interference.....	1.615
Provisional application.....	1.53(c)
Reissue	1.121(b), 1.173, 1.174
Requisites of.....	1.33, 1.111, 1.116, 1.121, 1.125
Right to amend.....	1.111, 1.116, 1.121, 1.127
Signature to	1.33
Substitute specification	1.125
Time for.....	1.134
To accompany motion to amend interference	1.633
To applications in interference.....	1.633
To correct inaccuracies or prolixity.....	1.121
To correspond to original drawing or specification	1.121
To preliminary statement in interference.....	1.628
To reissues	1.173, 1.174
To save from abandonment.....	1.135
Amino Acid Sequences. (See Nucleotide and/or Amino A Acid Sequences.)	
Appeal to Board of Patent Appeals and Interferences:	
Action following decision	1.197
Affidavits after appeal	1.195
Brief.....	1.192
Decision by Board	1.196
Examiner's answer.....	1.193
Fees.....	1.17
Hearing of	1.194
New grounds for refusing a patent.....	1.196
Notice of appeal	1.191

Index I

Rehearing	1.197
Reopening after decision	1.198
Reply brief	1.193
Statement of grounds for rejecting, by Board of Patent Appeals and Interferences.....	1.196
Appeal to Court of Appeals for the Federal Circuit:	
Fee provided by rules of court	1.301
From Board of Patent Appeals and Interferences.....	1.301
Notice and reasons of appeal	1.302
Time for	1.302, 1.304
Applicant for patent	1.41-1.48
Change.....	1.48
Deceased or insane inventor	1.42, 1.43
Executor or administrator	1.42
Informed of application number.....	1.54
Joint changed to sole	1.48
Letters for, sent to attorney or agent.....	1.33
May be represented by an attorney or agent.....	1.31
Personal attendance unnecessary.....	1.2
Required to conduct business with decorum and courtesy	1.3
Required to report assistance received	1.33
Sole changed to joint	1.48
Sole changed to another sole	1.48
Application for patent (see also Abandoned applications, Claims, Drawing, Examination of application Reissues, Provisional applications, Specification):	
Accepted and filed for examination only when complete.....	1.53
Access to	1.14
Acknowledgement of filing	1.54
Alteration after execution	1.67
Alteration before execution	1.52
Arrangement	1.77, 1.154, 1.163
Continuation or division, reexecution not required.....	1.53(b)
Continued Prosecution Application (CPA).....	1.53(d)
Copies of, furnished to applicants	1.59
Cross-references of related applications.....	1.78
Deceased or insane inventor	1.42, 1.43
Declaration	1.68
Duty of disclosure	1.56
Elements of, order and arrangement of.....	1.77, 1.154, 1.163
Execution in blank	1.67
Filed by other than inventor.....	1.42, 1.43, 1.47
Filed apparently without all pages of specification, petition asserting all pages were filed.....	1.53(e)
Filed apparently without any drawing, petition asserting drawing was filed, or was not necessary, or adding drawing along with new oath or declaration and seeking new filing date	1.53(e)
Filed apparently without all figures of drawing:	
Petition asserting all figures of drawing were filed	1.53(e)
Petition and filing of missing figures with new oath or declaration seeking new filing date	1.182
Filing date.....	1.53
Foreign language oath or declaration.....	1.69
Formulas and tables.....	1.58
General requisites	1.51
Identification required in letters concerning	1.5
Incomplete papers not accepted and filed for examination.....	1.53
Interlineations, etc., to be indicated.....	1.52
Language, paper, writing, margin.....	1.52

37 CFR Ch. I (7-1-04 Edition)

Later filing of oath and filing fee	1.53(f)
Must be made by actual inventor, with exceptions	1.41, 1.46
Names of all inventors required.....	1.41, 1.53
Non-English language	1.52
Nonprovisional filed without at least one claim, filing of petition to convert to a provisional application	1.53(c)(2)
Owned by Government	1.103
Papers having filing date not to be returned	1.59
Parts filed separately.....	1.54
Parts of application desirably filed together	1.54
Parts of complete application.....	1.51
Processing fees	1.17
Provisional application	1.9, 1.51(c), 1.53(c)
Relating to atomic energy	1.14(c)
Reservation for future application not permitted.....	1.79
Retention fee	1.53(f)
Secrecy order.....	5.1-5.6
Secret while pending	1.14
Serial number and filing date	1.54
Tables and formulas	1.58
To contain but one invention unless connected.....	1.141
To whom made	1.51
Two or more by same party with conflicting claims	1.78(b)
Application number	1.5(a), 1.53(a)
Arbitration award filing	1.335
Arbitration in interference.....	1.690
Assignee:	
Correspondence held with assignee of entire interest.....	3.71, 3.73
If of entire interest, patent may issue to him	1.46, 3.81
If of undivided part interest, correspondence will be held with inven- tor	1.33
If of undivided part interest, must assent to application for reissue of patent	1.171, 1.172
If of undivided part interest, patent may issue jointly	1.46, 3.81
May conduct prosecution of application.....	3.71, 3.73
May take action in interference	1.643
Taking of action in a patent matter before the Office by the Assignee, Assignee must establish its ownership of the patent application or patent involved to the satisfaction of the Commissioner	3.73(b)
Assignments and recording:	
Abstracts of title, fee for	1.19(b)
Conditional assignments	3.56
Date of receipt is date of record	3.51
Fees	1.21(h), 3.41
Cover Sheet required	3.28, 3.31
Correction of Cover Sheet errors.....	3.34
Effect of recording.....	3.54
Requirements for recording.....	3.21-3.41
If recorded before payment of issue fee, patent may issue to as- signee	3.81
Must be recorded in Patent and Trademark Office to issue patent to assignee	3.81
Orders for copies of.....	1.12
Patent may issue to assignee	3.81
Recording of assignments.....	3.11
Records open to public inspection.....	1.12
Must identify patent or application.....	3.21
What will be accepted for recording.....	3.11

Index I

Atomic energy applications reported to Department of Energy	1.14
Attorneys and agents:	
Acting in a representative capacity	1.33, 1.34
Assignment will not operate as a revocation of power	1.36
Associate	1.34
Certificate of good standing	1.21(a)
Fee on admission	1.21(a)
General powers not recognized	1.34
Office cannot aid in selection of	1.31
Personal interviews with examiners	1.133
Power of attorney or authorization of agent	1.34
Representative capacity	1.33, 1.34
Representing conflicting parties	1.613
Required to conduct business with decorum and courtesy	1.3
Revocation of power	1.36
Withdrawal of	1.36
Authorization of agents. (See Attorneys and agents.)	
Award in arbitration	1.335

B

Balance in deposit account	1.25
Basic filing fee	1.16
Benefit of earlier application	1.78
Bill in equity. (See Civil action.)	
Biological material. (See Deposit of Biological material)	
Board of Patent Appeals and Interferences. (See Appeal to Board of Patent Appeals and Interferences, Interferences.)	
Box CPA	1.53(d)(9)
Box PCT	1.1(b)
Box Reexam	1.1(c)
Briefs:	
At final hearing in interference	1.656
In petitions to Commissioner	1.181
On appeal to Board of Patent Appeals and Interferences	1.192
Business to be conducted with decorum and courtesy	1.3
Business to be transacted in writing	1.2

C

Certificate of correction	1.322, 1.323
Fees	1.20
Mistakes not corrected	1.325
Certificate of mailing (as first class mail) or transmission	1.8
Certificate of mailing by "Express Mail" no longer required, effective December 2, 1996	1.10
Certificate, Reexamination	1.570
Certified copies of records, papers, etc	1.13
Fee for certification	1.19(b)
Chemical and mathematical formulas and tables	1.58
Citation of prior art in patent	1.501
Citation of references	1.104(d)
Civil action	1.303, 1.304
Claims (see also Examination of applications):	
Amendment of	1.121
Conflicting, same applicant or owner	1.78
Date of invention of	1.110
Dependent	1.75
Design patent	1.153

37 CFR Ch. I (7-1-04 Edition)

May be in dependent form	1.75
More than one permitted.....	1.75
Multiple dependent	1.75
Must conform to invention and specification	1.75
Notice of rejection of.....	1.104
Numbering of	1.126
Part of complete application.....	1.51
Plant patent	1.164
Rejection of	1.104(c)
Required	1.75
Separate Sheet required for commencement of claim(s)	1.52(b)
Twice or finally rejected before appeal.....	1.191
Color drawing.....	1.84(a)(2)
Commissioner of Patents and Trademarks (see also Petition to Commissioner):	
Address of	1.1
All communications to Patent and Trademark Office to be addressed	
to	1.1
Cases decided by Board reopened only by	1.198
Initiates reexamination.....	1.520
Reissue in divisions referred to	1.177
Return of papers in violation of rule on decorum and courtesy	1.3
Common Ownership, statement by assignee may be required.....	1.78(c)
Complaints against examiners, how presented	1.3
Composition of matter, specimens of ingredients may be required	1.93
Computer program listings	1.96
Concurrent office proceedings	1.565
Conduct of reexamination proceedings.....	1.550
Conflicting claims, same applicant or owner in two or more applica-	
tions	1.78
Continuing application for invention disclosed and claimed in prior ap-	
plication.....	1.53(b)
Continued Prosecution Application (CPA).....	1.53(d)
Copies of patents, records, etc.....	1.11, 1.12, 1.13
Copies of records, fees.....	1.19(b), 1.59
Copyright notice in specification.....	1.71(d)
Copyright notice in drawings	1.84(s)
Correction, certificate of	1.322, 1.323
Correction of inventorship	1.48
Correspondence:	
Address, only one recognized	1.33(c)
All letters and communications to the Office to be addressed to (a) As-	
sistant Commissioner for Patents; or (b) Assistant Commissioner	
for Trademarks; or (c) Commissioner of Patents and Trade-	
marks.....	1.1
Business with the Office to be transacted by.....	1.2
Discourteous communications returned.....	1.3
Double, with different parties in interest not allowed	1.33
Facsimile transmissions.....	1.6(d)
Held with attorney or agent.....	1.33
Identification of application or patent in letter relating to.....	1.5
May be held exclusively with assignee of entire interest.....	3.81
Nature of.....	1.4
Patent owners in reexamination.....	1.33(c)
Receipt of letters and papers	1.6
Resumed with principal, if power or authorization is revoked	1.36
Rules for conducting in general.....	1.1-1.8
Secrecy, License to Export or File in Foreign Countries	5.1
Separate letter for each subject of inquiry.....	1.4

Index I

Signature requirements.....	1.4(d)
When no attorney or agent.....	1.33
With attorney or agent after power or authorization is filed	1.33
Coupons sold by the Office	1.24
Court of Appeals for the Federal Circuit, appeal to. (See Appeal to Court of Appeals for the Federal Circuit.)	
CPA (Continued Prosecution Application).....	1.53(d)

D

Date of invention of subject matter of individual claims.....	1.110
Day for taking any action or paying any fee falling on Saturday, Sunday, or Federal holiday.....	1.7
Death or insanity of inventor	1.42, 1.43
Decision on appeal by the Board of Patent Appeals and Interferences.....	1.196
Action following decision	1.197
Declaration (See also Oath in patent application).	
Foreign language.....	1.69
In lieu of oath.....	1.68
In patent application.....	1.68
Definitions:	
Independent inventor.....	1.9
National and international applications	1.9
Nonprofit organization	1.9
Nonprovisional application.....	1.9
Provisional application	1.9
Service of process	15 C.F.R. Part 15
Small business concern.....	1.9
Small entity	1.9
Terms under Patent Cooperation Treaty.....	1.401
Testimony by employees	15 C.F.R. Part 15a
Delivery of patent.....	1.315
Deposit accounts	1.25
Fees.....	1.21(b)
Deposit of computer program listings.....	1.96
Deposit of Biological Material:	
Acceptable depository	1.803
Biological material.....	1.801
Examination procedures.....	1.809
Furnishing of samples.....	1.808
Need or Opportunity to make a deposit.....	1.802
Replacement or supplemental deposit	1.805
Term of deposit.....	1.806
Time of making original deposit	1.804
Viability of deposit.....	1.807
Depositions (See also Testimony in interferences):	
Certificate of officer to accompany	1.676
Formalities to be observed in preparing.....	1.677
Person before whom taken.....	1.674
To be sealed up, addressed, and forwarded to the Commissioner.....	1.676
When transcript must be filed	1.678
Description of invention. (See Specification.)	
Design Patent Applications:	
Arrangement of specification	1.154
Claim	1.153
Drawing	1.152
Filing fee	1.16(f)

37 CFR Ch. I (7–1–04 Edition)

Issue and term	1.155
Issue fee	1.18(b)
Oath	1.153
Rules applicable.....	1.151
Title, description and claim	1.153
Determination of request for reexamination.....	1.515
Disclaimer, statutory:	
During interference	1.662(a)
Fee	1.20(d)
Requirements of.....	1.321
Terminal	1.321
Disclosure, amendments to not permitted.....	1.121
Disclosure document fee	1.21(c)
Discovery in interferences.....	1.672-1.688
Division. (See Restriction of application.)	
Division of patent on reissue	1.177
Document supply fees.....	1.19
Drawing:	
Amendment of	1.121
Arrangement of views	1.84(h)
Arrows.....	1.84(r)
Character of lines	1.84(l)
Color.....	1.84(a)(2)
Content of drawing.....	1.83
Copyright notice.....	1.84(s)
Correction.....	1.84(w), 1.85(c), 1.121
Cost of copies of	1.19
Design application.....	1.152
Extraneous matter	1.83(a)
Figure for Official Gazette.....	1.84(j)
Filed with application.....	1.81
Hatching and shading	1.84(m)
Holes	1.84(x)
Identification	1.84(c)
If of an improvement, must show connection with old structure	1.83(b)
Inferior or defective drawings will be rejected.....	1.85
Informal drawings	1.85
Ink.....	1.84(a)(1)
Lead lines.....	1.84(q)
Legends	1.84(o)
Letters	1.84(p)
Location of names.....	1.84(c)
Margin.....	1.84(g)
Mask work notice	1.84(s)
Must be described in and referred to specification.....	1.74
Must show every feature of the invention.....	1.83
No return or release	1.85(b)
Numbering of sheets.....	1.84(t)
Numbering of views.....	1.84(u)
Numbers.....	1.84(p)
Original may be used with application for reissue	1.174
Original should be retained by applicant	1.81(a)
Paper	1.84(e)
Part of application papers.....	1.52(b)
Photographs.....	1.84(b)
Plant patent application	1.81, 1.165
Printed and published by the Office when patented	1.84
Reference characters	1.74, 1.84(p)

Index I

Reissue.....	1.174
Release not permitted.....	1.85(b)
Required by law when necessary for understanding.....	1.81
Scale	1.84(k)
Security markings	1.84(v)
Shading.....	1.84(m)
Size of sheet.....	1.84(f)
Specific rules relating to preparation of drawings will be enforced.....	1.85
Standards for drawings	1.84
Symbols	1.84(n)
Views	1.84(h)
When necessary, part of complete application.....	1.51
Duty of disclosure	1.56, 1.555
Patent term extension	1.765

E

Election of species	1.146
Employee testimony (see Testimony by Office employees)	
Establishing small entity status	1.27, 1.28
Evidence. (See Testimony in interferences.)	
Examination of applications:	
Advancement of examination	1.102
As to form.....	1.104
Citation of references	1.104(d)
Completeness of examiner's action	1.104(b)
Examiner's action	1.104(a)
International-type search.....	1.104(a)
Nature of examination	1.104(a)
Reasons for allowance	1.104(e)
Reexamination after rejection if requested.....	1.111
Reexamination of original claims upon reissue.....	1.176
Reissue.....	1.176
Rejection of claims.....	1.104(c)
Suspension of.....	1.103
Examination of papers by attorney or agent not permitted without au- thorization	1.34
Examiners:	
Answers on appeal	1.193
Complaints against.....	1.3
Interviews with.....	1.133
Executors.....	1.42, 1.44
Exhibits. (See Models and exhibits.)	
Export of technical data	5.19, 5.20
Express abandonment	1.138
Express Mail, Addressee Only, USPS	1.10
Certificate of mailing by, not required eff. 12/2/96	1.10
Date of Receipt of	1.6
Petition in regard to	1.10
Extension of patent term	
Due to regulatory review period (35 U.S.C. 156):	
Applicant for	1.730
Application for.....	1.740
Calculation of term:	
Animal Drug Product.....	1.778
Food or color additive.....	1.776
Human drug product	1.775
Medical device.....	1.777

37 CFR Ch. I (7–1–04 Edition)

Veterinary biological product.....	1.779
Certificate.....	1.780
Conditions for	1.701, 1.720
Determination of eligibility.....	1.750
Duty of disclosure	1.765
Filing date of application	1.741
Complete application, what constitutes	1.741(a)
Review of determination via 1.181.....	1.741(b)
Interim extension.....	1.760
Multiple applications	1.785
Patents subject to.....	1.701, 1.710
Withdrawal of application.....	1.770
Due to prosecution delay (35 U.S.C. 154):	
Conditions for	1.701(a)
Appellate review	1.701(a)(3)
Interference proceeding	1.701(a)(1)
Secrecy order	1.701(a)(2)
Calculation of term:	
Appellate Review	1.701(c)(3)
Interference proceeding.....	1.701(c)(1)
Maximum extension.....	1.701(b)
Reduction of extension	1.701(d)
Secrecy order	1.701(c)(2)
Extension of time	1.136
Fees	1.17(a)-(d)
Interference proceedings.....	1.645
Reexamination proceedings.....	1.550(c)

F

Facsimile transmissions.....	1.6(d), 1.8
Federal Holiday, defined for 35 USC 21 purposes	1.9(h)
FEDERAL REGISTER, publication of rules in.....	1.351
Fees and payment of money:	
Coupons	1.24
Deposit account.....	1.25
Extension of time.....	1.17(a)
Fee on appeal to the Court of Appeals for the Federal Circuit provided by rules of court	1.301
Fees in case of petitions	1.181(d)
Fees payable in advance.....	1.22
Foreign filing license petition	1.17(h)
For international-type search report.....	1.21(e)
Method of payment	1.23
Money by mail at risk of sender.....	1.23
Money paid by mistake	1.26
Petitions	1.17
Reexamination request	1.20(c)
Refunds.....	1.26
Relating to international applications.....	1.445
Schedule of fees and charges	1.16-1.21
Files and papers of abandoned applications, disposition.....	1.14
Files open to the public.....	1.11
Filing date of application.....	1.53
Filing fee part of complete application.....	1.51
Filing fees	1.16
Filing in Post Office.....	1.8(a)(2), 1.10
Filing of interference settlement agreements	1.666
Final rejection:	

Index I

Appeal from	1.191
Response to	1.113, 1.116, 1.129
When and how given	1.113
First Class Mail (Priority Mail and Express Mail)	1.8, 1.10
Foreign application	1.55
License to file	5.11-5.25
Foreign country:	
Taking oath in	1.66
Taking testimony in	1.671
Foreign mask work protection	Part 150
Evaluation of request	150.4
Definition	150.1
Duration of proclamation	150.5
Initiation of evaluation	150.2
Mailing address	150.6
Submission of requests	150.3
Foreign patent rights acquired by government	101.1-101.11
Licensing	102.1-102.6
Formulas and tables in patent applications	1.58
Fraud practiced or attempted on Office	1.28(d), 1.56

G

Gazette. (See Official Gazette.)	
General authorization to charge deposit account	1.25
General information and correspondence	1.1-1.8, 1.10
Government acquisition of foreign patent rights	Part 501
Government employee invention	Part 501
Guardian of insane person may apply for patent	1.43

H

Hearings:	
Before the Board of Patents Appeals and Interferences	1.194
Fee for appeal hearing	1.17
In disciplinary proceedings	10.144
Of motions in interferences	1.640
Holiday, time for action expiring on	1.6, 1.7

I

Identification of application, patent or registration	1.5
Independent inventor:	
Definition	1.9
Status statement	1.27
Information disclosure statement:	
At time of filing application	1.51
Content of	1.98
Not permitted in provisional applications	1.51
Reexamination	1.555
To comply with duty of disclosure	1.97
Information, Public	1.15
Insane inventor, application by guardian of	1.43
Interferences (See also Depositions, Notice, Preliminary Statement in interferences, Testimony in interferences):	
Abandonment of the contest	1.662
Access to applications	1.612
Access to preliminary statement	1.631
Action by examiner after interference	1.664

37 CFR Ch. I (7–1–04 Edition)

Action if statutory bar appears	1.641, 1.659
Addition of new party by judge.....	1.642
Amendment during	1.615, 1.634, 1.637
Appeal to the Court of Appeals for the Federal Circuit.....	1.301, 1.302
Applicant requests.....	1.604
Arbitration	1.690
Briefs at final hearing.....	1.656
Burden of proof	1.657
Civil action	1.303
Claims copied from patent.....	1.606, 1.607
Claims of defeated parties stand finally disposed of.....	1.663
Concession of priority.....	1.662
Conflicting parties having same attorney	1.613
Copying claims from patent	1.606, 1.607
Correspondence.....	1.5(e)
Declaration of interference.....	1.611
Definition	1.601
Disclaimer to avoid interference	1.662(a)
Discovery.....	1.671, 1.688
Dissolution of	1.633
Dissolution on motion of judge.....	1.641
Extensions of time.....	1.645
Failure of junior party to take testimony.....	1.652
Failure to prepare for	1.603-1.606
Final decision	1.658
Final hearing	1.654
Final hearing briefs	1.656
Identifying claim from patent.....	1.607(a)(3), 1.637(e)(1)(vi)
In what cases declared	1.602
Inspection of cases of opposing parties.....	1.612
Interference with a patent.....	1.606-1.608
Junior party fails to overcome filing date of senior party	1.640
Jurisdiction of interference	1.614
Manner of service of papers	1.646
Matters considered in at final hearing	1.655
Motions.....	1.633-1.638
NAFTA country	1.601(r)
Nonpatentability argued at final hearing.....	1.655
Notice and access to applications of opposing parties.....	1.612
Notice of intent to argue abandonment.....	1.632
Notice of reexamination, reissue, protest or litigation	1.660
Notice to file civil action.....	1.303
Notices and statements	1.611
Order to show cause, judgment on the record.....	1.640
Ownership of applications or patents involved	1.602
Petitions	1.644
Preliminary statement.....	1.621-1.631
Preparation for	1.603-1.609
Presumption as to order of invention.....	1.657
Prosecution by assignee.....	1.643
Recommendation by Board of Patent Appeals and Interferences.....	1.659
Record and exhibits	1.653
Records of, when open to public	1.11
Reissue filed by patentee during.....	1.662
Request by applicant	1.604
Requests for findings of fact and conclusions of law	1.656
Return of unauthorized papers	1.618
Review of decision by civil action	1.303

Index I

Same party	1.602
Sanctions for failure to comply with rules or order	1.616
Sanctions for taking and maintaining a frivolous position.....	1.616
Second interference between same parties	1.665
Secrecy order cases	5.3(b)
Service of papers.....	1.646
Statement of, from examiner to Board.....	1.609
Status of claims of defeated applicant after interference	1.663
Statutory disclaimer by patentee during	1.662
Suggestion of claims for interference.....	1.605
Summary judgement	1.617
Suspension of ex parte prosecution	1.615
Termination of interference	1.661
Testimony copies.....	1.653
Time period for completion	1.610
Times for discovery and taking testimony	1.651
Translation of document in foreign language.....	1.647
WTO member country.....	1.601(s)
International application. (See Patent Cooperation Treaty.)	
International Preliminary Examining Authority	1.416
Interview summary.....	1.133
Interviews with examiner	1.133, 1.560
Inventor (see also Applicant for patent, Oath in patent application):	
Death or insanity of.....	1.42, 1.43
Refuses to sign application	1.47
To make application	1.41
Unavailable	1.47
Inventor's certificate priority benefit.....	1.55
Inventorship and date of invention of the subject matter of individual claims	1.110
Issue fee.....	1.18
Issue of patent. (See Allowance and issue of patent.)	

J

Joinder of inventions in one application	1.141
Joint inventors	1.45, 1.47, 1.324
Joint patent to inventor and assignee.....	1.46, 3.81
Jurisdiction:	
After decision by Board of Patent Appeals and Interferences	1.197, 1.198
After notice of allowance.....	1.312
Of contested case	1.614

L

Lapsed patents.....	1.137, 1.317
Legal representative of deceased or incapacitated inventor	1.42, 1.43
Legibility of papers which are to become part of the permanent Office records	1.52(a)
Letters to the Office. (See Correspondence.)	
Library service fee	1.19(c)
License for foreign filing	5.11-5.15
Licensing of government owned foreign patents	102.1-102.6
List of U.S. Patents classified in a subclass, cost of.....	1.19(d)
Local delivery box rental	1.21(d)

M

Maintenance fees.....	1.20(e)-(i)
-----------------------	-------------

37 CFR Ch. I (7-1-04 Edition)

Acceptance of delayed payment of.....	1.378
Fee address for.....	1.363
Review of decision refusing to accept.....	1.377
Submission of	1.366
Time for payment of	1.362
Mask work notice in specification.....	1.71(d)
Mask work notice on drawing	1.84(s)
Mask work protection, foreign.....	Part 150
Microfiche deposit.....	1.96
Microorganisms. (see) Deposit of Biological Material.)	
Minimum balance in deposit accounts	1.25
Misjoinder of inventor.....	1.48, 1.324
Missing pages when application filed	
Petition alleging there were no missing pages.....	1.53(e)
Petition with new oath or declaration and later submission of missing pages seeking new filing date	1.182
Mistake in patent, certificate thereof issued	1.322, 1.323
Models and exhibits:	
Copies of.....	1.95
If not claimed within reasonable time, may be disposed of by Commis- sioner.....	1.94
If on examination model be found necessary request therefor will be made.....	1.91
In contested cases	1.676
May be required	1.91(b)
Model not generally required as part of application or patent	1.91
Not to be taken from the Office except in custody of sworn em- ployee.....	1.95
Return of.....	1.94
Working model may be required	1.91(b)
Money. (See Fees and payment of money.)	
Motions in interference	1.633-1.637
To take testimony in foreign country	1.671

N

Name of applicant	1.41
New matter inadmissible in application.....	1.121
New matter inadmissible in reexamination	1.530(d), 1.552(b)
New matter inadmissible in reissue.....	1.173
Non-English language specification fee.....	1.17(k)
Nonprofit organization:	
Definition	1.9
Status statement	1.27
Notice:	
Of allowance of application	1.311
Of appeal to the Court of Appeals for the Federal Circuit.....	1.301, 1.302
Of arbitration award.....	1.335
Of defective reexamination request.....	1.510(c)
Of interference.....	1.611
Of oral hearings on appeals before Board of Patent Appeals and Inter- ference	1.194
Of rejection of an application.....	1.104(a)
Of use of official records as evidence	1.682
To conflicting parties with same attorney or agent.....	1.613
Nucleotide and/or Amino Acid Sequences:	
Amendments to.....	1.825
Disclosure in patent application.....	1.821

Index I

Format for sequence data	1.822
Form and format for computer readable form	1.824
Replacement of	1.825
Requirements	1.823

O

Oath or declaration in patent application:	
Apostilles	1.66
Before whom taken in foreign countries	1.66
Before whom taken in the United States	1.66
By administrator or executor	1.42, 1.63
By guardian of insane	1.43, 1.63
Certificate of Officer administering	1.66
Continuation-in-part	1.63(e)
Declaration	1.68
Foreign language	1.69
Identification of specification to which it is directed	1.63
International application, National Stage	1.497
Inventor's Certificate	1.63
Made by inventor	1.41, 1.63
Officers authorized to administer oaths	1.66
Part of complete application	1.51
Person making	1.64
Plant patent application	1.162
Requirements of	1.63
Ribbioned to other papers	1.66
Sealed	1.66
Signature to	1.63
Supplemental oath for matter disclosed but not originally claimed, or for other noncompliance with 1.63	1.67
To acknowledge duty of disclosure	1.63
When taken abroad to seal all papers	1.66
Oath or declaration in reissue application	1.175
Object of the invention	1.73
Office action time for response	1.134
Office fees. (See Fees and payment of money.)	
Official action, based exclusively upon the written record	1.2
Official business, should be transacted in writing	1.2
Official Gazette:	
Amendments to rules published in	1.351
One view of drawing published in	1.84(j)
Reexamination order published in is returned undelivered	1.525(b)
Service of notices in	1.646
Oral statements	1.2
Order to reexamine	1.525

P

Papers (requirements to become part of Office permanent records, e.g. legibility, capable of reproduction, etc.)	1.52
Handwritten, no longer permitted	1.52(a)
Papers not received on Saturday, Sunday or holidays	1.6
Patent application (See Application for patent and Provisional patent applica- tions.)	
Patent attorneys and agents. (See Attorneys and agents.)	
Patent Cooperation Treaty:	
Amendments and corrections during international processing	1.471
Amendments during international preliminary examination	1.485

37 CFR Ch. I (7-1-04 Edition)

Applicant for international application	1.421
Changes in person, name and address, where filed	1.421(f), 1.472
Conduct of international preliminary examination	1.484
Definition of terms	1.401
Delays in meeting time limits	1.468
Demand for international preliminary examination	1.480
Designation of States	1.432
Entry into national stage	1.491
As a designated office	1.494
As an elected office	1.495
Examination at national stage	1.496
Fees:	
Designation fees	1.432
Due on filing of international application	1.431(c)
Failure to pay results in withdrawal of application	1.431(d), 1.432
Filing and processing fees	1.445
International preliminary examining	1.482
National stage	1.492
Refunds	1.446
Filing by other than inventor	1.425
International application requirements	1.431
Abstract	1.438
Claims	1.436
Description	1.435
Drawings	1.437
Physical requirements	1.433
Request	1.434
International Bureau	1.415
International Preliminary Examining Authority	1.416
Inventor deceased	1.422
Inventor insane or legally incapacitated	1.423
Inventors, joint	1.424
National stage examination	1.496
Oath or declaration at national stage	1.497
Priority, claim for	1.451
Record copy to International Bureau, Transmittal procedures	1.461
Representation by attorney or agent	1.455
Rule 13	1.475
Time limits for processing applications	1.465, 1.468
United States as:	
Designated Office	1.414, 1.497
International Searching Authority	1.413
Receiving Office	1.412
Unity of invention:	
Before International Searching Authority	1.475, 1.476
Before International Preliminary Examining Authority	1.488
National stage	1.499
Protest to lack of	1.477, 1.489
Patent policy, government	100.1-100.11
Patentee notified of interference	1.602
Patents (see also Allowance and issue of Patent):	
Available for license or sale, publication of notice	1.21(i)
Certified copies of	1.13
Copying claims of	1.606, 1.607
Correction of errors in	1.171, 1.322, 1.323, 1.324
Date, duration and form	1.137
Delivery of	1.315
Disclaimer	1.321

Index I

Identification required in letters concerning	1.5
Lapsed, for nonpayment of issue fee.....	1.137
Obtainable by civil action	1.303
Price of copies	1.19
Records of, open to public	1.11
Reissuing of, when defective.....	1.171-1.179
Payment of fees.....	1.23
Personal attendance unnecessary.....	1.2
Petition for reissue	1.171, 1.172
Petition to Commissioner:	
Fees	1.17
For delayed payment of issue fee.....	1.137
For license for foreign filing	5.12
For the revival of an abandoned application	1.137
From formal objections or requirements.....	1.113, 1.181
From requirement for restriction.....	1.129, 1.144
General requirements	1.181
In interferences.....	1.644
In reexamination	1.515(c)
On refusal of examiner to admit amendment	1.127
Questions not specifically provided for.....	1.182
Suspension of rules	1.183
To exercise supervisory authority	1.181
To make special	1.102
Upon objection that appeal is informal	1.193
Plant patent applications:	
Applicant	1.162
Claim	1.164
Declaration	1.162
Description	1.162
Drawings.....	1.165
Examination	1.167
Fee for copies	1.19
Filing fee.....	1.16(g)
Issue fee.....	1.18(c)
Oath	1.162
Rules applicable.....	1.161
Specification.....	1.163
Specimens	1.166
Post issuance fees.....	1.20
Post Office receipt as filing date	1.10
Postal emergency or interruption	1.6(e)
Power of attorney. (See Attorneys and agents.)	
Preliminary statement in interferences:	
Access to.....	1.631
Contents to.....	1.622-1.627
Contents of, invention made in other than the United States, a NAFTA country, or a WTO member country	1.624
Correction of statement on motion	1.628
Effect of statement	1.629
Failure to file	1.639, 1.640
In case of motion to amend interference	1.633
May be amended if defective.....	1.628
Not evidence	1.630
Reliance on prior application	1.626
Requirement for.....	1.621
Sealed before filing.....	1.627
Service on opposing parties	1.621

37 CFR Ch. I (7-1-04 Edition)

Subsequent testimony alleging prior dates excluded	1.629
When opened to inspection	1.631
Preserved in confidence, applications	1.12 and 1.14
Exceptions (status, access or copies available)	1.14
Printing testimony	1.653
Prior art citation in patent	1.501
Prior Art, disqualification of commonly owned patent as	1.130
Prior art may be made of record in patent file	1.501
Prior art statement:	
Content of	1.98
In reexamination	1.555
To comply with duty of disclosure	1.97
Prior Invention, affidavit or declaration of, to overcome cited patent or publication	1.131
Priority, right of, under treaty or law	1.55
Processing and retention fee	1.21(l), 1.53(f)
Proclamation as to protection of foreign mask works	Part 150
Production of documents in legal proceedings	15 C.F.R. Part 15a
Protests to grant of patent	1.291
Provisional patent applications:	
Claiming the benefit of	1.78(a)(3)
Converting a nonprovisional to a provisional	1.53(c)(2)
Filing date	1.53
Filing fee	1.16(k)
General requisites	1.51(b)(2)
Later filing of filing fee and cover sheet	1.53(g)
Names of all inventors required	1.41, 1.53(c)
No right of priority	1.53(c)(2)
No examination	1.53(i)
Papers concerning, must identify provisional applications as such, and by application number	1.5(f)
Parts of complete provisional application	1.51(c)
Processing fees	1.17
Revival of	1.137
When abandoned	1.53(e)(2)
Public information	1.15
Public use proceedings	1.292
Fee	1.17(j)
Publication:	
Of reexamination certificate	1.570(f)

R

Reasons for allowance	1.104(e)
Reconsideration of Office action	1.112
Recording of assignments. (See Assignments and recording.)	
Records of the Patent and Trademark Office	1.11-1.15
Records used as evidence in interference	1.682
Reexamination:	
Amendments, manner of making	1.121(c)
Announcement in Official Gazette	1.11(c)
Appeal to Board	1.191
Appeal to Court of Appeals for the Federal Circuit	1.301
Certificate	1.570
Civil action	1.303
Common ownership, statement by assignee may be required	1.78(c)
Concurrent office proceedings	1.565
Conduct of proceedings	1.550

Index I

Correspondence address.....	1.33(c)
Decision of request	1.515
Duty of disclosure.....	1.555
Examiner's action.....	1.104
Fee	1.20(c)
Fee charged to deposit account.....	1.25
Fee refund	1.26
Identification in letter	1.5(d)
Initiated by Commissioner	1.520
Interference	1.565
Interviews	1.560
Open to public	1.11(d)
Order.....	1.525
Reconsideration.....	1.112
Refund of fee	1.26
Reply by requester.....	1.535
Reply to action	1.111
Request	1.510
Response consideration.....	1.540
Scope	1.552
Service.....	1.248
Statement of patent owner.....	1.530
Reference characters in drawings.....	1.74, 1.84(p)
References cited on examination.....	1.104(d)
Refund of money paid by mistake.....	1.26
Register of Government interest in patents.....	7.1-7.7
Rehearing:	
Of appeal decisions by Board of Patent Appeals and Interferences	1.197(b)
Request for, time for appeal after action on.....	1.304
Reissues:	
Applicants, assignees.....	1.172
Application for reissue.....	1.171
Application made and sworn to by inventor, if living	1.172
Amendment to specification.....	1.173
Declaration.....	1.175
Drawings.....	1.174
Examination of reissue	1.176
Filed during interference.....	1.662(b)
Filing during reexamination	1.565
Filing fee.....	1.16
Filing of announced in Official Gazette	1.11(b)
Grounds for and requirements.....	1.171-1.179
Issue fee	1.18(a)
Loss of original patent.....	1.178
Notice of reissue application	1.179
Oath	1.175
Open to public	1.11
Original claims subject to reexamination	1.176
Original patent surrendered	1.178
Reissue in divisions	1.177
Specification.....	1.173
Take precedence in order of examination.....	1.176
To contain no new matter	1.173
What must accompany application.....	1.171, 1.172
When in interference.....	1.660
Rejection:	
After two rejections appeal may be taken from examiner to Board of Appeals	1.191

37 CFR Ch. I (7-1-04 Edition)

Applicant will be notified of rejection with reasons and references	1.104
Examiner may rely on admissions by applicant or patent owner, or facts within examiner's knowledge	1.104(c)
Final	1.113
Formal objections.....	1.104
On account of invention shown by others but not claimed, how over- come	1.131
References will be cited	1.104(c)
Requisites of notice of	1.104
Reply brief	1.193
Reply by applicant or patent owner	1.111
Reply by requester.....	1.535
Representative capacity	1.34(a)
Request for reconsideration.....	1.112
Request for reexamination	1.510
Reservation clauses not permitted.....	1.79
Response time to Office action	1.134
Restriction of application	1.141-1.146
Claims to nonelected invention withdrawn	1.142
Constructive election	1.145
Petition from requirements for	1.129, 1.144
Provisional election.....	1.143
Reconsideration of requirement	1.143
Requirement for.....	1.142
Subsequent presentation of claims for different invention	1.145
Transitional procedures.....	1.129
Retention fees.....	1.21(l), 1.53(f)
Return of correspondence	1.5(a)
Return of papers having a filing date.....	1.59
Revival of abandoned application.....	1.137
Unavoidable abandonment fee	1.17(l)
Unintentional abandonment fee	1.17(m)
Revocation of power of attorney or authorization of agent	1.36
Rules of Practice:	
Amendments to rules will be published	1.351

S

Saturday, when last day falls on	1.7
Scope of reexamination proceedings.....	1.552
Secrecy order.....	5.1-5.6
Serial number of application (Obsolete terminology) (see Application Number)	1.5, 1.53, 1.54(b), 1.62(e)
Service of notices:	
For taking testimony	1.673
In interference cases.....	1.611
Of appeal to the Court of Appeals for the Federal Circuit	1.301
Service of papers.....	1.248
Service of process	15 C.F.R. Part 15
Acceptance of service of process	15.3
Definition	15.2
Scope and purpose	15.1
Shortened period for response	1.134
Signature:	
Original required for certain correspondence	1.4(d)
Copy Acceptable for some correspondence	1.4(d)
To amendments, etc	1.33
To express abandonment.....	1.138

Index I

To oath.....	1.63
To reissue oath or declaration.....	1.172
Small business concern:	
Definition	1.9
Status statement	1.27
Small entity:	
Definition	1.9
License to Federal Agency	1.27
Statement	1.27
Statement in parent application.....	1.28
Status establishment.....	1.27, 1.28
Status update	1.28
Solicitor's address	1.1(a)(3)
Species of invention claimed	1.141, 1.146
Specification (see also Application for patent, Claims):	
Abstract	1.72
Amendments to.....	1.121, 1.125
Arrangement of.....	1.77, 1.154, 1.163
Best mode.....	1.71
Claim.....	1.75
Contents of	1.71-1.75
Copyright notice	1.71(d)
Cross-references to other applications	1.78
Description of the invention	1.71
Erasures and insertions must not be made by applicant	1.121
If defective, reissue to correct.....	1.171-1.179
Mask work notice.....	1.71(d)
Must conclude with specific and distinct claim	1.75
Must point out new improvements specifically	1.71
Must refer by figures to drawings	1.74
Must set forth the precise invention	1.71
Not returned after completion	1.59
Object of the invention.....	1.73
Order of arrangement in framing	1.77
Paper, writing, margins	1.52
Part of complete application.....	1.51
Reference to drawings	1.74
Requirements of	1.71-1.75
Reservation clauses not permitted.....	1.79
Substitute.....	1.125
Summary of the invention	1.73
Title of the invention.....	1.72
To be rewritten, if necessary	1.125
Specimens. (See Models and exhibits.)	
Specimens of composition of matter to be furnished when required.....	1.93
Specimens of plants.....	1.166
Statement of status as small entity	1.27
Statutory disclaimer fee.....	1.20(d)
Statutory invention registrations	1.293
Examination of	1.294
Publication of.....	1.297
Review of decision finally refusing to publish.....	1.295
Withdrawal of request for publication of.....	1.296
Sufficient funds in deposit account.....	1.25
Suit in equity. (See Civil action.)	
Summary of invention	1.73
Sunday, when last day falls on	1.7
Supervisory authority, petition to Commissioner to exercise.....	1.181

37 CFR Ch. I (7–1–04 Edition)

Supplemental oath for amendment presenting claims for matter dis-	
closed but not originally claimed.....	1.67
Surcharge for oath or basic filing fee filed after filing date	1.16(e), 1.53(f)
Suspension of action.....	1.103
Suspension of ex parte prosecution during interference.....	1.615
Suspension of rules	1.183
Symbols for drawings.....	1.84(n)
Symbols for nucleotide and/or amino acid sequence data.....	1.822

T

Tables in patent applications.....	1.58
Terminal disclaimer	1.321
Testimony by Office employees	15 C.F.R. Part 15a
Definition.....	15 C.F.R. Part 15a.2
Policy re demand for testimony or document production.....	15 C.F.R. Part 15a.3
Procedures re demand for testimony or document production	15 C.F.R. Part 15a.4
Private litigation	15 C.F.R. Part 15a.6
Proceedings involving the United States	15 C.F.R. Part 15a.7
Requests for confidential documents	15 C.F.R. Part 15a.7
Scope.....	15 C.F.R. Part 15a.1
Subpoena of Office employee.....	15 C.F.R. Part 15a.5
Testimony of employees in proceedings involving U.S	15 C.F.R. Part 15a.8
Testimony in interferences:	
Additional time for taking	1.645
Assignment of times for taking.....	1.651
Certification and filing by officer	1.676
Copies of	1.653
Depositions must be filed	1.678
Discovery	1.687
Effect of errors and irregularities in deposition.....	1.685
Evidence must comply with rules.....	1.671
Examination of witnesses	1.675
Failure to take	1.652
Form of deposition.....	1.677
Formal objections to	1.685
Formalities in preparing depositions	1.674-1.677
In foreign countries	1.671
Inspection of testimony.....	1.679
Manner of taking testimony of witnesses.....	1.672
Motion to extend time for taking	1.645
Not considered if not taken and filed in compliance with rules	1.671
Notice of examination of witnesses	1.673
Notice of intent to rely on affidavit	1.671(e)
Objections noted in depositions.....	1.675
Weight of deposition testimony taken in foreign country	1.671(j)
Objections to formal matters	1.685
Official records and printed publications	1.682
Officer's certificate.....	1.676
Persons before whom depositions may be taken.....	1.674
Printing of	1.653
Service of notice	1.673
Stipulations or agreements concerning	1.672
Taken by depositions.....	1.672
Testimony taken in another interference or action, use of.....	1.683
Time for taking	1.651
To be inspected by parties to the case only.....	1.679

Index I

Time expiring on Saturday, Sunday, or holiday.....	1.7
Time for payment of issue fee.....	1.311
Time for response by applicant.....	1.134, 1.136
Time for response by patent owner.....	1.530
Time for response by requester.....	1.535
Time for response to Office action.....	1.134, 1.136
Time, periods of.....	1.7
Timely filing of correspondence.....	1.8, 1.10
Title of invention.....	1.72
Title reports, fee for.....	1.19(b)(4)
Transitional procedures.....	1.129

U

Unavoidable abandonment.....	1.137
Unintentional abandonment.....	1.137
United States as:	
Designated Office.....	1.414, 1.497
Elected Office.....	1.414
International Preliminary Examining Authority	1.416
International Searching Authority	1.413
Receiving Office.....	1.412
Unsigned continuation or divisional application	1.53
Use of file of parent application.....	1.53(d)

V

Verified statement of small entity status.....	1.27
--	------

W

Waiver of secrecy	1.53(d)(6)
Withdrawal from issue.....	1.313
Withdrawal of attorney or agent.....	1.36
Withdrawal of request for statutory invention registration	1.296
Written Description allegedly missing	
Petition contesting this allegation.....	1.53(e)
Petition with new oath or declaration and later submission of missing specification seeking new filing date	1.53(e)